IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL REVISION No.66 of 2003

Manoj Pandey S/o Bishan Lal Pandey ... Revisionist

Versus

Family Court, U.S. Nagar, Rudrapur and another
... Respondent

Dated: November 21, 2008

Sri S.K. Mandal, Advocate for the revisionist
Sri M.A. Khan, brief holder for State/Respondent No.1
None appears for respondent no.2

HON. DHARAM VEER, J.

This criminal revision, preferred by the revisionist under Section 397/401 of The Code of Criminal Procedure, 1973 (***hereinafter to be referred as Cr.P.C.***) r/w Section 19(4) of the Family Courts Act, 1984, is directed against the judgment and order dated 25.03.2003 passed by Family Judge, U.S. Nagar in Misc. Case No.137/2002, Smt. Seema Pandey Vs. Manoj Pandey, by which the revisionist has been directed to pay Rs.2,000/- per month to respondent no.2-wife as maintenance allowance from the date of application.

2. Sri S.K. Mandal, Advocate for the revisionist and Sri M.A. Khan, brief holder for State/Respondent No.1 are present. None is present for respondent no.2, though service is reported to be sufficient. Perused the entire material available in file.

3. In brief the facts of case are that Respondent No.2-Smt. Seema Pandey moved an application u/s 125 Cr.P.C. with the averments that she got married with the revisionist on 17.04.1992 as per Hindu RITES. It was also stated that her father gave dowry according to his status, however the revisionist and his family members were not satisfied with it

and they started demanding a motorcycle and a colour television in dowry. After being compelled, her father gave a Hero Honda Motor Cycle. It was also stated that after the marriage, respondent no.2 came to know that the revisionist is also having illicit relations with his sister in law (BHABHI) and when she tried to persuade him, then the revisionist on the contrary started harassing her. It was also stated that before two years of moving of application, she became seriously ill however no heed was paid towards her by the revisionist and his family members. At last, her father got her medically examined and after operation, somehow her life could be saved. It was also stated that when her father had brought her for medical treatment, then she got only 3-4 pairs of clothes and her entire Stridhan is in her in-laws house. Since then the revisionist did not pay any heed towards her nor he paid any amount for her maintenance. It was also stated that she is totally dependent on her father who is 70 years of age and is a retired person. It was also stated that she has studied only up to Intermediate and has no source of income. On the other hand, revisionist was shown to be having two tractors, an orchard over more than 20 acres of land and also having business of contract work, dairy and oil mill. In total, the revisionist was shown to be earning Rs.35,000/- per month. The revisionist also appeared before the court below and filed his written statement and denied most of the averments made in the application. After hearing counsel for the parties and appreciating the material on record, the learned Family Judge, U.S. Nagar vide his judgment and order dated 25.3.2003 directed the revisionist as above. Against the aforesaid judgment and order, the revisionist has come up in revision.

4. The impugned order has been assailed on the ground that the revisionist has got no independent income, therefore, the court below has wrongly awarded the

maintenance against the revisionist. In this regard, the court below has recorded a finding that the revisionist belongs to a respectable family. It was also held by the court below that the revisionist lives in a joint family and he can easily pay the maintenance amount to the respondent no.2. Even the revisionist himself admitted in his statement filed before the court of Addl. Civil Judge (S.D.) in Case No.39/2000 that there is a Tractor in his house. He also admitted that he is having about 100 Bighas of land which is in the name of his father. He also admitted that weekly market is also held in his land twice a week. The court below after perusing the above facts rightly came to the conclusion that the revisionist is capable to give maintenance to respondent no.2 and as such the court below rightly decided the maintenance amount to be paid to respondent no.2 against the revisionist.

5. Thus, in view of the aforesaid discussion, it is proved that the respondent no.2 is unable to maintain herself and due to ousting of revisionist and his family members for the demand of dowry, she is compelled to live at her parental house. On the other hand, the revisionist is intentionally neglecting his wife though he has got sufficient means to maintain his wife. Thus, the court below has rightly directed the revisionist to pay Rs.2,000/- per month for maintenance of respondent no.2.

6. In view of the above-said discussion, I do not find any illegality, impropriety or incorrectness in the impugned judgment and order dated 25.03.2003 passed by Family Judge, U.S. Nagar.

7. For the reasons recorded above, the revision is devoid of merits and is accordingly dismissed.

(Dharam Veer, J.)
21.11.2008

Rajeev Dang